

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DARLA OWEN AND
ROBERT OWEN,

Plaintiffs,

v.

Case No. 3:19-cv-00025

CAPITAL ACCOUNTS, LLC,

Defendant.

**PLAINTIFFS, DARLA OWEN AND ROBERT OWEN'S MOTION FOR CLERK'S
ENTRY OF DEFAULT AS TO DEFENDANT, CAPITAL ACCOUNTS, LLC**

Plaintiffs, Darla Owen and Robert Owen, through undersigned counsel, hereby move pursuant to Fed. R. Civ. P. 55(a), for entry of default as to Defendant Capital Accounts, LLC. Under Rule 55(a), “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.”

Plaintiffs filed their Complaint [Doc. 1] in this case January 7, 2019. On January 9, 2019, Defendant was served at its place of business as described in the Return of Service [Doc. 7] filed with the Court on January 10, 2019.

The longer of twenty-one (21) days since service or five (5) days after removal have passed, and, despite the requirements set forth in Fed. R. Civ. P. 12(a), Defendant has not filed any response to Plaintiffs’ Complaint, nor has it otherwise appeared in this case. In light of the failure by Defendant “to plead or otherwise defend,” Fed. R. Civ. P. 55(a) requires that “the clerk must enter the party’s default.”

Plaintiffs accordingly request that the clerk enter Defendant’s default.

Dated: February 8th, 2019

Respectfully submitted,

/s/ Frank H. Kerney, III
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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 8th, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will automatically serve a copy on all counsel of record.

s/Frank H. Kerney, III
Frank H. Kerney, III